

In the Matter of )  
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Telephone Number Portability ) CC Docket No. 95-116

**REPLY COMMENTS OF VERIZON WIRELESS  
ON THE PETITION FOR DECLARATORY RULING OF THE  
CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION**

The Commission should act decisively and quickly on CTIA’s May 13, 2003 petition, as well as its January 23, 2003 petition.<sup>2</sup> Several commentators agreed that the unresolved issues are critical to successful deployment of LNP by wireless carriers.<sup>3</sup> Success means more than the technical capability to perform ports, but also a positive, “friction-free,” porting experience for consumers if LNP is to deliver on its competitive promise. Over industry objections, the FCC has firmly held that portability is consistent with the public interest because it will enhance

<sup>3</sup> See Comments by Western Wireless at 1; T-Mobile at 1, 5-10; Virgin Mobile at 2; NENA at 6; ALLTELL at 2; Cingular at 20.

competition among wireless carriers and between wireless and wireline carriers.<sup>4</sup> If the Commission's predictive judgment is to be realized, the FCC must intervene to ensure that carriers enter into porting contracts and to resolve outstanding porting process disputes.

**A. Porting Should Be “Friction Free” and Reciprocal.**

The basic thrust of CTIA's petition is simple: the lack of common standards and/or rules has created uncertainty and obstacles for successful implementation of wireless porting, both wireline to wireless and wireless to wireless. Such “friction” surrounding the wireless porting experience will dampen competition, not enhance it. Verizon Wireless supports a “friction-free,” reciprocal consumer porting experience, regardless of what two carriers are involved, in which only legitimate technical and customer validation reasons prevent or delay processing of a port request. The FCC has concluded that LNP rules are needed to drive a market for portability, and the D.C. Circuit has upheld that finding.<sup>5</sup> Having based its LNP mandate for wireless carriers on that conclusion, the FCC cannot now rely solely on market forces and voluntary agreements to make LNP happen. Verizon Wireless agrees with ALLTEL that the FCC cannot “justly expect market participants to placidly go forward and implement the mandate fairly and uniformly without benefit of concrete, enforceable rules and guidance.”<sup>6</sup> The FCC must now step in and clarify carriers' obligations by, for example, confirming that carriers may not impose restrictions on the process beyond necessary validation requirements.

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<sup>4</sup> Verizon Wireless Petition for Partial Forbearance from Commercial Mobile Radio Services Number Portability Obligation, *Memorandum Opinion and Order*, 17 FCC Rcd. 14972 at ¶ 20 (2002) (“*Verizon Wireless LNP Order*”).

<sup>5</sup> Cellular Telecommunications & Internet Ass'n and Celco P'ship d/b/a Verizon Wireless v. FCC, No. 02-1264, Slip Op. at 8 (D.C. Cir. June 6, 2003) citing *Verizon Wireless LNP Order* at ¶ 21.

<sup>6</sup> ALLTEL comments at 3.

Verizon Wireless urged the Commission more than a month ago to take action.<sup>7</sup> The record now demonstrates that some carriers will attempt to impose non-porting related conditions to delay, if not deny, porting altogether, *e.g.*, by refusing to port if a consumer owes an early termination fee or otherwise has an arrearage on his or her account and/or until the customer contacts the old service provider.<sup>8</sup> Nextel notes in its comments that some carriers may be planning to restrict customers' ability to port quickly by utilizing "porting windows," which are limited hours during which port requests will be processed.<sup>9</sup> There is no reason why a porting customer should be treated any differently than a customer who terminates a contract prematurely and has an unpaid balance. Allowing a customer to change carriers freely with his number intact will not impede the right of the old service provider to collect an early termination fee or unpaid balance under the terms of its customer service agreement. Carriers who provide friction-free porting to their out-going customers should also benefit from friction-free porting by their competitors. Porting must be a reciprocal, two-way process that is not delayed or limited by arbitrary restrictions.

The Commission should also legitimize necessary industry-developed technical standards by adopting them within the rules as it did in the wireline context. The FCC implied in the *Fourth NRO Order* that carriers need not comply with industry technical standards, by allowing carriers not to implement the industry-approved standard of MIN/MDN separation, but instead to use other undefined methods for supporting roaming and E911.<sup>10</sup> Adopting technical standards

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<sup>7</sup> See Letter, John T. Scott, III, Vice President and Deputy General Counsel – Regulatory Law, Verizon Wireless to Marlene H. Dortch, Secretary, FCC (May 20, 2003) (attached hereto).

<sup>8</sup> See Comments by Cingular at 21-24; Nextel at ii, 7-9.

<sup>9</sup> Comments by Nextel at 9-10.

<sup>10</sup> *Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Telephone Number Portability*, Fourth Report and Order in CC Docket No. 99-200 and CC Docket No. 95-116, and Fourth Further Notice of Proposed Rulemaking in CC Docket No. 99-200, FCC 03-126 (rel. June 18, 2003) at fn. 34 ("*NRO Fourth Report and Order*").

will help ensure that all carriers implement the necessary technology to make porting and roaming work.

**B. The Porting Interval Issue Does Not Affect E911 Policies.**

A number of carriers commented on CTIA's discussion of the impact of the porting interval on enhanced 911 ("E911") calling.<sup>11</sup> However the Commission resolves the porting interval dispute, there is no need for wireless carriers to delay activating a ported-in number beyond the point of sale in response to E911 issues. The Commission's E911 policies and rules already allow for situations where customers are unable to receive PSAP call-backs.

Customers will be best served if they are given the ability to make outgoing calls immediately on their new wireless phones, along with clear notice that they will not receive incoming calls, including E911 call-backs, until the port is complete. Processing end users' porting requests in this way will promote the Commission's LNP objective of allowing customers to retain their existing telephone numbers without impairment of convenience when switching from one carrier to another.<sup>12</sup> Prohibiting carriers from activating ported numbers at the point of sale would require customers to endure the inconvenience of either returning to the retail facility or remotely activating their service through potentially confusing prompts at some indeterminate time in the future -- possibly deterring customers from porting in the first instance or from benefiting from in-person technical assistance in operating the features of their new phones. The Commission intended that LNP would "make it easier" for carriers to offer service

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<sup>11</sup> See, e.g., Comments by First Cellular of Illinois at 6-7; Nextel at 5-6; Rural Cellular Association at 5; and Sprint at 6.

<sup>12</sup> Convenience to end users is expressly incorporated in the Commission's definition of number portability. See 47 C.F.R. § 52.21(k).

to existing wireless consumers; imposing activation restrictions on carriers would impose added operational burdens and complicate sales and customer care interactions with customers.<sup>13</sup>

Carriers that opt to provide the point of sale activation approach would provide short-term *origination-only* service offerings – which the Commission has expressly acknowledged are not expected to afford E911 call-back capability.<sup>14</sup> In other cases involving non-service initialized handsets, the Commission has valued the ability of customers to make calls to public safety and has recognized that technical limitations may prevent or limit call-back capability.<sup>15</sup> Under point of sale activation, customers will continue to enjoy important public safety benefits of having a handset with E911 dialing capability in the period immediately following the port request. Customers can be apprised of the temporary origination-only service limitation at the point of sale, and carriers will continue to provide available E911 location information to the PSAP as otherwise required under the rules during the interim “mixed-service” period.

NENA “recommends that the FCC consider instructing wireless carriers that service activation should be within a few hours prior to port activation, regardless of whether it is a wireline-to-wireless or wireless-to-wireless port.”<sup>16</sup> But this proposal could actually leave customers with no access to emergency service from either their old service provider or their

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<sup>13</sup> Verizon Wireless LNP Order at ¶ 22.

<sup>14</sup> *In the Matter of Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Memorandum Opinion and Order, 12 FCC Rcd. 22665, 22717-18 ¶ 108 (1997) (“covered carriers will not be required to provide reliable call back numbers to PSAPs in the case of mobile units that are not associated with a dialable telephone number (for example, because they were *designed or offered on an originate-only rate plan*, . . .”) (emphasis added)).

<sup>15</sup> Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Non-initialized Phones, *Report and Order*, 17 FCC Rcd. 8481 (2002). The Order has been stayed pending consideration of an alternative scheme for identifying calls from non-service initialized phones (as proposed by the Emergency Services Interconnection Forum) because there is no call-back capability for such phones. See Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Non-initialized Phones, *Order*, 17 FCC Rcd. 19,012 (2002). Unlike the permanency of the callback limitation for non-service initialized phones absent a technical fix, the callback limitation immediately after a port request will be 2 ½ hours for most intramodal wireless ports and, depending upon the FCC’s resolution of the issues raised in this proceeding, a few hours to four days for intermodal ports with wireline carriers.

<sup>16</sup> NENA Comments at 3-4.

new service provider during the porting interval. Customers who choose to port their numbers should be able to walk into a wireless store and leave with a phone that can make outgoing calls and that is programmed to support all services once the port is complete.

As NENA itself acknowledges, industry and PSAP consensus at the NENA WNP subcommittee was reached on the need for “education of customers as to 9-1-1 service during the porting interval, when a wireline-to-wireless port is involved.”<sup>17</sup> As Verizon similarly noted, “if CMRS providers which choose to activate service immediately advise consumers that, until the port is completed, they will not receive incoming calls, customers will be fully aware that callbacks will not occur.”<sup>18</sup> Verizon Wireless agrees that so long as customers are apprised that *no* incoming calls will be received, including calls from PSAPs, concerns regarding the impact of the porting interval on E911 calling are sufficiently addressed.

**C. The Commission Must Ensure That Carriers Do Not Abuse the Bona Fide Request Requirement to Derail LNP By Reconsidering the BFR Requirement or Directing Carriers to Deploy Upon Receipt of a Good Faith Request to Provide LNP.**

In its initial comments, Verizon Wireless urged the Commission to eliminate the *bona fide* request (“BFR”) requirement because it creates a substantial and unnecessary administrative burden on carriers, and creates uncertainty regarding which carriers are required to port and which are not. Unfortunately, immediately following the receipt of the initial comments, the Commission released the *NRO Fourth Order*,<sup>19</sup> which retained the BFR requirement as a trigger for the obligation to deploy LNP in a carrier’s switches. Specifically, the *NRO Fourth Order* stated, “We reaffirm that carriers must deploy local number portability (LNP) in switches within the 100 largest Metropolitan Statistical Areas (MSAs) for which another carrier has made a

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<sup>17</sup> *Id.* at 4.

<sup>18</sup> Comments by Verizon at 9.

<sup>19</sup> *NRO Fourth Report and Order*, CC Docket No. 99-200, FCC 03-126 (rel. June 18, 2003).

specific request for the provision of LNP.”<sup>20</sup> This policy shifts the burden for LNP compliance onto competing carriers and, without further specific guidance or oversight from the FCC or state commissions will result in far fewer customers being able to port. Having reaffirmed the BFR requirement, the Commission must now resolve the problems that caused Verizon Wireless to urge the Commission to remove the rule:

- The Commission must clarify a carrier must provide portability to *all* carriers once it has received a BFR from *any* carrier, and must make available a list of switches that have been opened to porting.
- The *Fourth NRO Order* reaffirms the requirements that BFRs specifically request portability, identify the discrete geographic area covered by the request, and provide a tentative date by which the carrier expects to utilize number portability.<sup>21</sup> Despite this general guidance, even when carriers put forth best efforts to request the service as outlined, competing carriers can find ways to evade the obligation by taking issue with the sufficiency of the request. The Commission should direct carriers to accept as valid any BFR that meets the Commission’s requirements by identifying the switch or geography (defined by the NPA, MSA/RSA) in which portability is requested.<sup>22</sup>

Verizon Wireless’s experience with the BFR process shows why immediate Commission action is critical. Verizon Wireless expended great effort and issued BFRs to wireless carriers that operate in Verizon Wireless’s licensed service areas in all MSAs, 37 initially in the top 100 MSAs and 331 to carriers serving the remainder of the United States and its territories. Some wireless carriers declined to accept the BFR on the basis that it was untimely and are refusing to implement LNP by the November 24, 2003 deadline. Several carriers indicated their intention to

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<sup>20</sup> *Id.* at ¶ 1.  
<sup>21</sup> *Id.* at ¶ 10.

seek waivers from LNP. Others simply failed to respond. If the majority of wireless carriers did not bother to send BFRs because Verizon Wireless and a few other carriers were requesting LNP (and because of the uncertainty regarding the ongoing need for BFRs at the time), some carriers may avoid providing LNP by the deadline, undercutting the usefulness of that deadline.

Landline carrier resistance to BFRs was also significant. The original deadline for issuing BFRs to wireline carriers has long passed, but under the Commission's rules, carriers can issue BFRs as needed and the rules provide the timeframe for switch conversion ranging from 30 days to 180 days depending upon the status of the switches to be converted.<sup>23</sup> Verizon Wireless identified areas in the LEC territories, using the Telcordia™ LERG Routing Guide™, to determine where switches were not marked portable and mailed BFRs to 230 wireline carriers.<sup>24</sup> In so doing, Verizon Wireless employed the BFR form developed by the industry.<sup>25</sup> Nonetheless, many LECs, with strikingly similar or verbatim wording improperly rejected the BFR as invalid and/or confusing on the basis that the transmitting cover letter did not recite the magic words that it was a request for LNP.<sup>26</sup>

Beyond complaints over the format of the BFR, carriers provided the following reasons for invalidating the request from Verizon Wireless: (1) "there are a number of policy and operational issues, as well as, uncertainties surrounding number portability between wireline and

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<sup>22</sup> 47 C.F.R. § 52.23 (b)(1) (LECs); 47 C.F.R. § 52.31(a) (CMRS carriers).

<sup>23</sup> 47 C.F.R. § 52.23.

<sup>24</sup> Telcordia and LERG Routing Guide are trademarks of Telcordia Technologies, Inc.

<sup>25</sup> Telephone Number Portability, *First Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd. 7236 (1997) (*LNP Order on Reconsideration*). In this order, the FCC not only concluded that LECs should only provide LNP within the 100 largest MSAs in switches for which another carrier has made a specific request, but also stated, "We leave it to the industry and to state commissions to determine the most efficient procedure for identifying those switches in which carriers have expressed interest." The industry BFR form was developed to facilitate LNP.

<sup>26</sup> Rejections were received from the following carriers: Clear Creek Mutual Telephone Company, El Paso County Telephone Company, Pioneer Telephone Cooperative, Ponderosa Telephone Co., Roggen Telephone Cooperative Company, Alhambra-Grantfork Telephone Company, CTC Telecom, Inc. Many of these responses invite Verizon Wireless to submit a request, which they will respond to upon receipt. Verizon Wireless should not



wireless carriers that must be addressed by the FCC prior to implementation;”<sup>27</sup> (2) Verizon Wireless must obtain numbers in the same rate center(s) as those requested for LNP prior to the implementation of LNP and/or geographic portability is not a requirement (*i.e.*, allowing numbers to be ported outside the LEC rate center);<sup>28</sup> and (3) an interconnection or traffic agreement has not been negotiated and/or Verizon Wireless does not have facilities or a point of presence in the rate or wire centers.<sup>29</sup> The pattern of resistance clearly illustrates an urgent need for Commission action if LNP is to achieve the benefits expected by the Commission and by consumers.

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have to submit additional correspondence to perfect a request for LNP, especially when the timing for compliance is tied to the BFR process.

<sup>27</sup> This response was received from the following carriers: Brazoria Telephone Company, Chesnee Telephone Company, Valley Telephone Cooperative, Inc.; *See also* responses from The Champaign Telephone Company and Granite State Telephone citing similar reasons.

<sup>28</sup> This response was received from the following carriers: Baldwin Telecom, Inc., Mount Horeb Telephone Company, Eastex Telephone Cooperative, Inc., Nortex Communications.

<sup>29</sup> This response was received from the following carriers: Alma Telephone Company, Ragland Telephone Co., Inc., Eastex Telephone CO-OP., Inc., Colton Telephone & Cable TV, Fidelity Telephone Company, Local Access Communications; SCS Communications & Security, Valley Telephone Cooperative Inc., Lathrop Telephone Company.

**D. Conclusion**

The FCC should move expeditiously to resolve all issues raised in the CTIA petitions so that portability will work for consumers on November 24th, a mere five months from today. For portability to provide the competition, consumer protection or public interest benefits hoped for by the Commission, the Commission needs to act now to ensure friction-free porting, that carriers enter the necessary inter-carrier contracts in good faith, and that the BFR process is modified to ensure broader customer access to LNP.

Respectfully submitted,

VERIZON WIRELESS

By:

A handwritten signature in black ink that reads "John T. Scott, III". The signature is written in a cursive style with a horizontal line underneath the name.

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